

UNITED STATES BANKRUPTCY COURT  
FOR THE MIDDLE DISTRICT OF NORTH CAROLINA  
DURHAM DIVISION

IN RE: )  
 ) CHAPTER 13  
ARNOLD RAYE BALDWIN )  
& ANGELIA G. BALDWIN )  
 ) CASE NO. 11-81093  
DEBTORS. )

UNITED STATES OF AMERICA'S OBJECTION TO  
CONFIRMATION OF DEBTORS' CHAPTER 13 PLAN

Comes now the United States of America, by and through its attorney, Ripley E. Rand, United States Attorney for the Middle District of North Carolina, on behalf of the Internal Revenue Service (the Service), and objects to confirmation of the Chapter 13 Plan filed by the debtors herein (the plan).

IN SUPPORT THEREOF, the United States avers:

1. The debtors in this case filed their Chapter 13 petition on July 6, 2011.

2. On July 14, 2011, the Service filed its Proof of Claim dated July 13, 2011, in the amount of \$144,329.26. Such claim consists of a secured claim in the amount of \$44,985.96, an unsecured priority claim pursuant to 11 U.S.C. § 507(a)(8) in the amount of \$9,049.93, and an unsecured general claim in the amount of \$90,294.37.

3. The Chapter 13 plan is objectionable because the plan does not adequately provide for the Service's secured claim in the amount \$44,985.96. To date, the debtor has not filed an objection to the Service's secured claim in the amount of \$44,985.96, nor has the Service agreed to concede any portion of that claim. A debtor's plan is not the appropriate forum for a debtor to raise an objection to the amount of a creditor's claim. See Bankruptcy Rule 3007; United States Aid Fund, Inc. v. Espinosa, 130 S. Ct. 1367 (2010); In re Smith, 142 B.R. 862, 866 (Bankr. E.D. Ark. 1992); In re Barbier, 77 B.R. 799, 799-800 (Bankr. D. Nev. 1987) rev'd on other grounds, United States v. Barbier, 896 F.2d 377 (9<sup>th</sup> Cir. 1990). If the debtors object to the Service's secured claim, then the debtors should file an objection to the Service's claim or try to reach an agreement with the Service with respect to such claim.

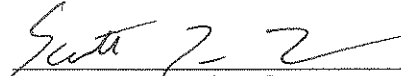
WHEREFORE, it is requested that the debtors' Chapter 13 plan  
be denied confirmation.

Ripley E. Rand  
United States Attorney

9/21/11

Date

By:



Scott L. Little  
Special Assistant  
United States Attorney  
F.L. Bar No. 0963011  
2303 W. Meadowview Rd.  
Kinston Building, Mail Stop 24  
Greensboro, NC 27407-3726  
Tel. No. (336) 378-2055

CERTIFICATE OF SERVICE

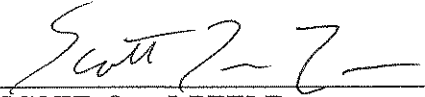
This is to certify that a copy of the foregoing UNITED STATES OF AMERICA'S OBJECTION TO CONFIRMATION OF DEBTORS' CHAPTER 13 PLAN was served this date on the parties listed below by depositing copies thereof, postage prepaid, in the United States mail, or via electronic service of the ECF system:

Arnold Raye Baldwin & Angelia G. Baldwin  
Debtors  
524 Dixie Avenue  
Hillsborough, NC 27278

John T. Orcutt  
Attorney for Debtor  
6616-203 Six Forks Rd.  
Raleigh, NC 27615

Richard M. Hutson, II  
Chapter 13 Office  
302 East Pettigrew St., Suite B-140  
P.O. Box 3613  
Durham, NC 27702

Date: 9/21/11

  
SCOTT L. LITTLE  
Special Assistant  
United States Attorney  
F.L. Bar No. 0963011  
2303 W. Meadowview Rd.  
Kinston Building, Mail Stop 24  
Greensboro, NC 27407-3726  
Tel. No. (336) 378-2055